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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,267	10/29/2001	Dale S. Cheney	T8263.DIV	9637

7590

06/02/2005

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary	Application No.	Applicant(s)	
	10/021,267	CHENEY, DALE S.	
	Examiner	Art Unit	
	Tri M. Mai	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-53 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 27-53 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 27-53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6386409. Although the conflicting claims are not identical, they are not patentably distinct from each other because It would have been obvious to one of ordinary skill in the art to eliminate the limitations with respect to the divider when they are not desired.

2. Claims 27-29, 35-37, and 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauders (1155447). Sauders teaches a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam 11 to engage the lid latch 10 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the thickness of portion 14.

Regarding claim 28, to the degree a vehicle is not claimed, the base can be configured to attach to a vehicle as claimed, and can be fit between sidewall of a truck bed.

Regarding claim 29, portion 11 can be rotated 180 degrees as claimed.

Regarding claim 35, the term “complete travel” does not impart any structure over the path 14 in Saunders.

Regarding claim 43, Note that the recitation “first coupling position occurring when the lid is in an opened position” is broad. The first instant contact between the portion 11 and 10 would meet this limitation.

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3. Claims 30, 38, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauders in view of Brachhausen (621318). It would have been obvious to one of ordinary skill in the art to provide a hooking catch with notches (at i, j, k) to provide an alternative catch.

It is noted that portion A can travel 180 degrees about b.

4. Claims 27, 28, 30-31, 35-36, 38-39, 43-45, 49, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Howe (532067), or in the alternative, over Howe. Howe teaches a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam at c2 to engage the lid latch c3 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the notch c2. It is noted that portion a can be considered as a lid.

To the degree it is argued that the lid coupler is not in lid/base as set forth in the claim. It would have been obvious to one of ordinary skill in the art to reverse the parts to provide the desired place for attachment. Furthermore, to the degree it is argued that the two portions a and b are not pivotally connected. Official Notice that it would have been obvious to one of ordinary skill in the art to provide a hinge to provide a pivotal connection.

5. Claims 27, 28, 30-32, 35-40, 43-45, 49-50, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkirson (2708302). Wilkirson teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam at 50 to engage the lid latch 54 while the lid is in an open position such that the lid

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latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the curve 52 and into the notch c2.

6. Claims 27-30, 35-39, 43-45, 46-48, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Grove (460437). Grove teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam at b3 to engage the lid latch B' while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the curve and into the notch at B2.

Regarding claim 29, the position of portion b5 is about 180 degrees as claimed.

7. Claims 31, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grove in view of Howe. It would have been obvious to one of ordinary skill in the art to provide two lid couplers in Grove as taught by Howe to provide added security.

8. Claims 27-31, 34-39, 42-49, 52 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheney (5484092). Cheney teaches a container having a container having a storage box having a base structure, a lid, a lid coupler connected to the lid and the base structure, a lid coupler including a lid latch and a lid actuator. The lid actuator including a hooking cam at 146 to engage the lid latch 152 while the lid is in an open position such that the lid latch tracks along the hooking cam of the lid actuator such that the lid actuator is rotated the lid latch tracks along the hooking cam and the lid actuator is pulled down along the hook and

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into the notch. It is noted that the term "notch" is broad. The notch is formed between the bending of the two angled portions in Cheney.

9. Claims 33, 41, and 51 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the double patenting rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

